

Current Litigation: *Required property- tax exemptions*

Alaska Statutes: Title 29 Municipal Government

2022 Updates
from the
32nd Legislature
Second Session: January – June 2022



Presentation at
the 2024 Winter
Legislative Coreference
of the



William D. Falsey, Partner
bfalsey@huthreynolds.com

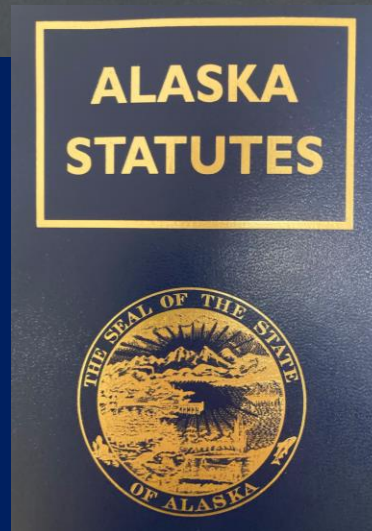
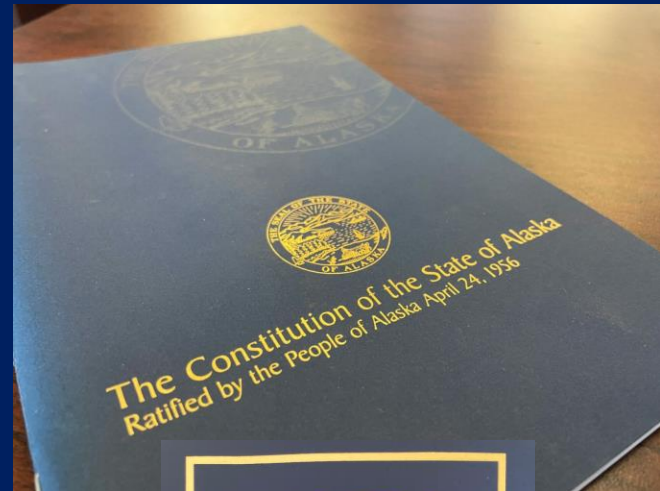
February 22, 2024

Huth
Reynolds

L
L
P

Where are the rules that apply to local government in Alaska?

- Article X of the Alaska Constitution
- Title 29 *Municipal Government*



The Constitution of the State of Alaska

Article IX – Finance and Taxation

§ 4. Exemptions

The real and personal property of the State or its political subdivisions shall be exempt from taxation under conditions and exceptions which may be provided by law. All, or any portion of, property used exclusively for non-profit religious, charitable, cemetery, or educational purposes, as defined by law, shall be exempt from taxation. Other exemptions of like or different kind may be granted by general law. All valid existing exemptions shall be retained until otherwise provided by law.

§ 29.45.030. Required exemptions

(a) The following property is exempt from general taxation:

(3) property used exclusively for nonprofit religious, charitable, cemetery, hospital, or educational purposes;

(b) In (a) of this section, “property used exclusively for religious purposes” includes the following property owned by a religious organization:

(1) the residence of an educator in a private religious or parochial school or a bishop, pastor, priest, rabbi, minister, or religious order of a recognized religious organization; for purposes of this paragraph, “minister” means an individual who is

(A) ordained, commissioned, or licensed as a minister according to standards of the religious organization for its ministers; and

(B) employed by the religious organization to carry out a ministry of that religious organization;

(2) a structure, its furniture, and its fixtures used solely for public worship, charitable purposes, religious administrative offices, religious education, or a nonprofit hospital;

(3) lots required by local ordinance for parking near a structure defined in (2) of this subsection.



**NORTON SOUND
HEALTH CORPORATION**





**NORTON SOUND
HEALTH CORPORATION**

For the application, NSHC described the use of the Property 1 as follows:

This property houses hospital employees, including doctors and nurses. It also houses visiting doctors and nurses for various agencies, these are referred to as Contract Labor or locums. Housing is necessary and directly incidental to the operation of the hospital-without housing the hospital could not sufficiently staff and support its operations to provide essential healthcare. Direct hire NSHC employees staying in this property are taxed for a period of 30 days and then charged rent. The rent charged does not include costs such as maintenance, snow removal, insurance, or depreciation. Rent is not charged to visiting essential workers (contract labor or locums); NSHC does not intend to make a profit from utilization of this property and does not in fact generate a profit from use of the property as housing.¹¹

- *Is housing of this sort used “exclusively for nonprofit hospital purposes”?*
- *Is housing of this sort use “exclusively for nonprofit charitable purposes”?*

The Nome Nugget

Alaska's Oldest Newspaper

• USPS 598-100 • Single Copy Price - 50 Cents in Nome •

HOME

NEWS

SPORTS

EDUCATION

ARTS

OPINION

OBITUARIES

AROUND THE SOUND

CLASSIFIEDS

Calendar

e-Edition

Image Galleries

Multimedia

Subscriptions

Submissions

Archives

Property Tax Dispute Between NSHC And City Heads To Alaska Supreme Court

FRI, 11/03/2023 - 10:11PM admin

 Share < 0  Email < 0

BY: DIANA HAECKER

A years-long dispute between the City of Nome and Norton Sound Health Corporation, whether certain NSHC properties should be exempt from property taxation, is making its way to the Alaska Supreme Court.

At the heart of the dispute lies if NSHC properties that are used to directly provide medical services qualify for tax exemption under state and federal laws. A Superior Court Judge found yes, they do. But that decision is being appealed by the City and will be decided by the highest court in the state.

The city disagreed the judge's decision for one particular property in dispute and filed an appeal with the Supreme Court in mid-August. The property at dispute is identified as property 1. It refers to the former Lawyers Apartments, a 7-plex apartment complex on 1st Avenue that is now owned by NSHC to provide housing for medical staff.

The city's court filing appealing the judge's decision says that the board of equalization found that NSHC collects rent from some of the employees housed there and that "NSHC provided medical services in Nome for years without the use of Property 1", that the property is not used to provide medical treatment to sick or injured people and is not used exclusively for nonprofit hospital purposes. The court filing says that the Superior Court erred in concluding that NSHC satisfied its burden of demonstrating that the property is used exclusively for nonprofit hospital and charitable purposes, and that the court erred in finding that NSHC satisfied the burden before the board of equalization that Nome's interest in collected real property tax on the property is relatively inconsequential.

According to Mayor John Handeland, NSHC has land and buildings valued at more than \$131 million. If taxed, NSHC's tax bill would be \$1.4 million.

The property in question is valued at \$1 million, with a tax value of \$10,700. Handeland added that NSHC bought the apartment complex west of the hospital, assessed at \$4.7 million (approximately \$50,000 in tax), which will be reflected in future assessments, and NSHC is making plans to add another three housing multiplexes to their list of properties.

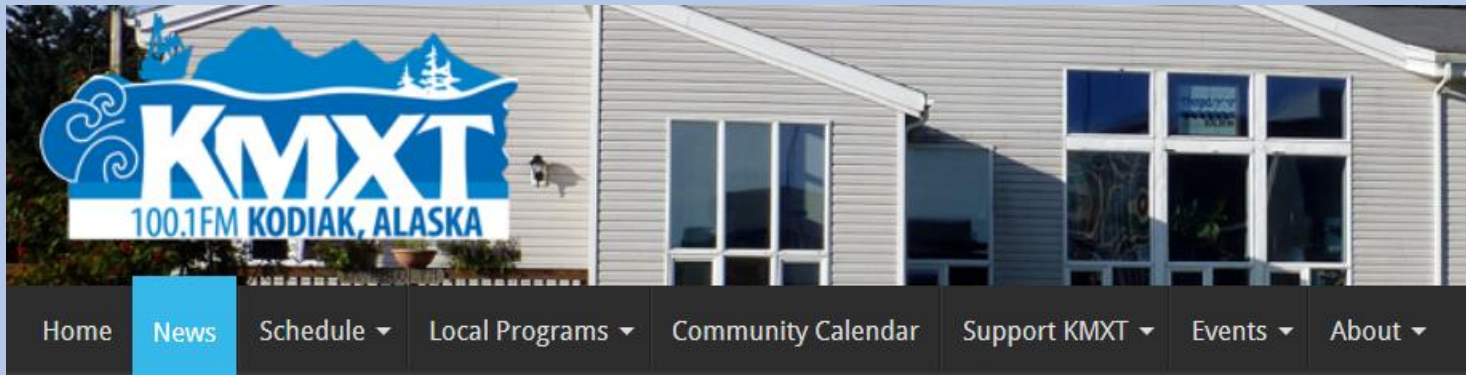
KODIAK DAILY MIRROR

[Careers](#)[Local Events](#)[Subscribe](#)[Classifieds](#)[e-Edition](#)[Local News](#)[Community](#)[Local Sports](#)[Features](#)

KANA tax case mirrors one in Nome

By STEVE WILLIAMS Kodiak Daily Mirror Nov 7, 2023 0

The case to determine whether Kodiak Area Native Association should pay property taxes on a portion of its holdings reflects another dispute currently before the Alaska Supreme Court.



KODIAK ISLAND BOROUGH TAKES LAWSUIT WITH KANA TO ALASKA SUPREME COURT

👤 Brian Venua ⌚ October 27, 2023 📁 Kodiak Island Borough, News, Newsflash

A legal back and forth between the Kodiak Island Borough and the Kodiak Area Native Association over property taxes is headed to the Alaska Supreme Court.

KANA has been paying property taxes despite claiming that the organization should be under a Bureau of Indian Affairs exemption for serving Native people.

However, nearly half a million dollars have been returned to KANA since the ruling. But the borough is appealing to the state supreme court to get those taxes back. The money disputed is from their 2020 and 2021 fiscal years.

Williams said if the appeal goes through, most of the money would likely go towards the school district.



Alaska Appellate Courts

Case Management System

Home New Search Opinions Media Contact Us

Briefing Summary

S18833 City of Nome v. Norton Sound Health Corp.



NORTON SOUND HEALTH CORPORATION

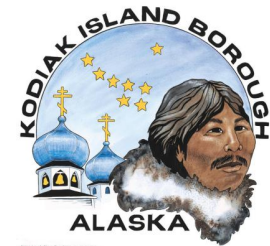
Original Briefing

Status: Open 9/20/2023

Dkt#	Document	Type	Party
10		Appellant's	City of Nome
27		Appellee's	Norton Sound Health Corporation
15		Amicus	Ketchikan Gateway Borough Kodiak Island Borough Kenai Peninsula Borough
43		Reply	City of Nome
31		Amicus	Bristol Bay Area Health Corporation
33		Amicus	Ahtna T'Aene Nene' (Copper River Native Association) Alaska Native Tribal Health Consortium Central Council of the Tlingit & Haida Indian Tribes of Alaska Chugachmiut Dena' Nena' Henash (Tanana Chiefs Conference) Eastern Aleutian Tribes Kenaitze Indian Tribe Ketchikan Indian Community Kodiak Area Native Association Maniilaq Association Southeast Alaska Regional Health Consortium Yukon-Kuskokwim Health Corporation



ALASKA NATIVE TRIBAL HEALTH CONSORTIUM



Ahtna T'Aene Nene' (Copper River Native Association)
Alaska Native Tribal Health Consortium
Central Council of the Tlingit & Haida Indian Tribes of Alaska
Chugachmiut
Dena' Nena' Henash (Tanana Chiefs Conference)
Eastern Aleutian Tribes
Kenaitze Indian Tribe
Ketchikan Indian Community
Kodiak Area Native Association
Maniilaq Association
Southeast Alaska Regional Health Consortium
Yukon-Kuskokwim Health Corporation





"To Elevate the Quality of Life of the People We Serve"



- *Is housing of this sort used “exclusively for nonprofit hospital purposes”?*
- *Is housing of this sort use “exclusively for nonprofit charitable purposes”?*
- *Are Tribal Health Organization-properties used for Public Law 93-638 Indian Self-Determination and Education Assistance Act (ISDEAA)-purposes necessarily “charitable”?*
- *Can properties used by THOs for programs that are federal funded under ISDEAA be taxed at all (or does “federal preemption” kick in)?*



A. NSHC as a Nonprofit Hospital.

NSHC is a tribally owned and operated, independent, not-for-profit healthcare organization founded in 1970 to meet the healthcare needs of the Bering Strait region and currently operates the *only* health system in the region. [Exc. 7]. NSHC is governed by a 22-member board of directors who represent all communities and areas of this 44,000 square-mile section of Northwestern Alaska. [Exc. 7]. NSHC operates health facilities and provides health care services to Alaska Natives and all other residents in the region pursuant to the Alaska Tribal Health Compact (ATHC), a multi-tribe self-governance compact with the federal Indian Health Service (IHS) under Title V of the Indian Self-Determination and Education Assistance Act (ISDEAA), 25 U.S.C. § 5381, et seq., and funding agreements (FAs), which include program funding amounts negotiated for each fiscal year between the IHS and NSHC to fund the programs, functions, services, and activities (PFSAs) that NSHC performs on behalf of IHS.

D. Federal Law Preempts Nome Property Taxes against NSHC.

What Could the Practical Effects of the Rulings Be?

IN THE SUPREME COURT OF THE STATE OF ALASKA

City of Nome,)	
)	
Appellant,)	
)	
v.)	Supreme Court No. S-18833
)	
Norton Sound Health Corporation,)	
)	
Appellee.)	
<hr/>		
Trial Court Case No. 2NO-22-00095CI		

AMICUS BRIEF OF ALASKA TRIBAL HEALTH ORGANIZATIONS

I. Significance of the Issue Presented.

This matter, narrowly framed, is about the municipal tax status of one parcel:
NSHC's hospital provider and staff quarters in Nome. But this matter implicates far more than that one property. The outcome may affect the tax status of hundreds of properties used by Amici THOs to deliver critically needed health care and social services for Alaska Native communities on a nonprofit, charitable basis in every corner of Alaska.

What Could the Practical Effects of the Rulings Be?

What is the status quo?

- (1) Smaller: In particular, does a Tribal Health Organization in your jurisdiction own real property that is used to house hospital staff?
 - (a) is the real-property taxed, and
 - (b) what amount of tax revenue does the real property annually generate?

- (2) Bigger: Beyond housing, in your jurisdiction, do you have real property owned by a tribal health entity?
 - (a) how many parcels are taxed, and
 - (b) what amount of tax revenue do those parcels annually generate?



Alaska Appellate Courts

Case Management System

[Home](#)

[New Search](#)

[Opinions](#)

[Media](#)

[Contact Us](#)

Briefing Summary

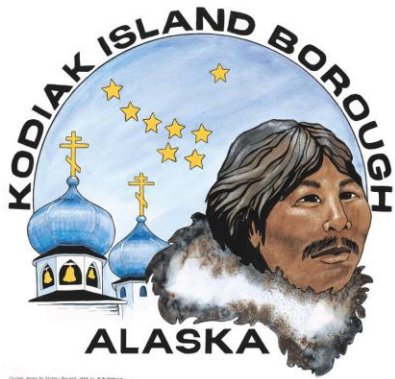
S18884 Kodiak Island Borough v. Kodiak Area Native Assn. [Lead Appeal: S18893] [S18893](#)

Briefing Stage

Original Briefing

Status: Open 11/29/2023

Dkt#	Document	Type	Party	Date
17		Appellant's	Kodiak Island Borough	2/22/2024
		Appellee's	Kodiak Area Native Association	4/5/2024



"To Elevate the Quality of Life of the People We Serve"



KODIAK AREA NATIVE ASSOCIATION

Number	Description	Location
PID 15507	Former AC/Shipping and Storage/Marketplace	City of Kodiak
PID 15699	Alutiiq Museum	City of Kodiak
PID 16342	Main Clinic	City of Kodiak
PID 16643	Child Advocacy Center	City of Kodiak
PID 19917	<u>Ouzinkle Employee Housing</u>	Ouzinkle
PID 20248	Kaguyak Village Office	Akhiok
PID 21518	Repair Shop	City of Kodiak
PID 20388	<u>Port Lions Employee Housing</u>	Port Lions
PID 23258	Community Services Center	City of Kodiak
PID 23992	Wellness Center	City of Kodiak



Docket

S18833 City of Nome v. Norton Sound Health Corp.

<u>Dkt#</u> ↑	<u>Document</u>	<u>Item</u>	<u>Status</u>	<u>Date Filed or Issued</u>
44	Certificate of Typeface and Service Re: 43, Original Briefing: Reply Brief			2/16/2024
43	Original Briefing: Reply Brief		212 Check Pending	2/21/2024

Thank you!



**William D. Falsey,
Partner**

bfalsey@huthreynolds.com

Huth | L
Reynolds | L
| P